
By: **Delegate Harrison**

Introduced and read first time: March 8, 2004

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 15, 2004

Committee Report: Favorable

House action: Adopted

Read second time: March 31, 2004

CHAPTER _____

1 AN ACT concerning

2 **Property and Casualty Insurance Guaranty Corporation - Actions for**
3 **Claims Information of Insolvent Insurers**

4 FOR the purpose of authorizing the Property and Casualty Insurance Guaranty
5 Corporation to bring an action against certain representatives of an insolvent
6 insurer to obtain custody and control of certain claims information under certain
7 circumstances; providing that the Corporation has a certain right to obtain
8 certain claims information in a certain manner; providing that the Corporation
9 is not subject to certain defenses or other grounds that might be asserted for
10 refusal to surrender claims information; requiring the court to award the
11 Corporation certain costs and attorney fees under certain circumstances;
12 providing for the effect of this Act; providing for the application of this Act; and
13 generally relating to actions brought by the Property and Casualty Insurance
14 Guaranty Corporation to obtain claims information of insolvent insurers.

15 BY repealing and reenacting, without amendments,
16 Article - Insurance
17 Section 9-301(a) and (c)
18 Annotated Code of Maryland
19 (2003 Replacement Volume)

20 BY adding to
21 Article - Insurance
22 Section 9-306(g)
23 Annotated Code of Maryland
24 (2003 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Insurance**

4 9-301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (c) "Corporation" means the Property and Casualty Insurance Guaranty
7 Corporation.

8 9-306.

9 (G) (1) TO THE EXTENT APPROPRIATE OR NECESSARY FOR THE
10 CORPORATION, OR A SIMILAR ASSOCIATION OR CORPORATION IN ANOTHER STATE,
11 TO CARRY OUT ITS DUTIES UNDER THIS SUBTITLE, THE CORPORATION MAY BRING
12 AN ACTION AGAINST A THIRD PARTY ADMINISTRATOR, PRODUCER, AGENT,
13 ATTORNEY, OR OTHER REPRESENTATIVE OF AN INSOLVENT INSURER TO OBTAIN
14 CUSTODY AND CONTROL OF ALL FILES AND RECORDS, REGARDLESS OF FORMAT,
15 RELATED TO CLAIMS INFORMATION THAT INVOLVES THE INSOLVENT INSURER.

16 (2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE
17 CORPORATION:

18 (I) HAS THE ABSOLUTE RIGHT THROUGH EMERGENCY EQUITABLE
19 RELIEF TO OBTAIN CUSTODY AND CONTROL OF ALL CLAIMS INFORMATION IN THE
20 CUSTODY OR CONTROL OF THE THIRD PARTY ADMINISTRATOR, PRODUCER, AGENT,
21 ATTORNEY, OR OTHER REPRESENTATIVE OF THE INSOLVENT INSURER, REGARDLESS
22 OF WHERE THE CLAIMS INFORMATION IS PHYSICALLY LOCATED; AND

23 (II) IS NOT SUBJECT TO ANY DEFENSE, LIEN, OR OTHER LEGAL OR
24 EQUITABLE GROUND THAT MIGHT BE ASSERTED AGAINST THE LIQUIDATOR OF THE
25 INSOLVENT INSURER FOR REFUSAL TO SURRENDER CLAIMS INFORMATION.

26 (3) IF AN ACTION IS REQUIRED UNDER THIS SUBSECTION AFTER
27 REFUSAL TO PROVIDE CLAIMS INFORMATION IN RESPONSE TO A WRITTEN DEMAND
28 FOR THE CLAIMS INFORMATION, THE COURT SHALL AWARD THE CORPORATION ITS
29 COSTS, EXPENSES, AND REASONABLE ATTORNEY FEES INCURRED IN BRINGING THE
30 ACTION.

31 (4) THIS SUBSECTION DOES NOT AFFECT THE RIGHTS AND REMEDIES
32 THAT THE CUSTODIAN OF THE APPLICABLE CLAIMS INFORMATION MAY HAVE
33 AGAINST THE INSOLVENT INSURER IF THOSE RIGHTS AND REMEDIES DO NOT
34 CONFLICT WITH THE RIGHT OF THE CORPORATION TO CUSTODY AND CONTROL OF
35 THE CLAIMS INFORMATION UNDER THIS SUBSECTION.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only
37 to insurer insolvencies that occur on or after the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2004.